

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6267 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 No
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AMBABEN D PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR RM CHRISTIE for Petitioner
Ms.V.K.Parekh, learned A.G.P., instructed by Mr.D.A.
Bambhania, Govt. Solicitor for respondents Nos.1,3 and 4.
Mr. P.J. Patel for respondent No.2.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/12/96

ORAL JUDGMENT :

1. The petitioner is a widow of one Shri Dahyabhai B. Parmar, who was serving as a sweeper in District Panchayat, Nadiad and had served as such for a period of more than 33 years. He retired on 31.1.92 and died on 15.7.94 and till date he breathed his last he did not get any retiral benefit or pension. It is unfortunate that even uptill now after a lapse of more than 2 years of the death of her husband and even after a period of more than 4 years after the retirement of her deceased husband, the

petitioner is not getting any benefit of the retiral dues of her husband, who had served the Panchayat for a period of 33 years. This court is rather bemoaned to notice the submission of the learned counsel for the petitioner that she is not even being paid the provisional pension.

2. The present Special Civil Application was filed on 19.8.96 and after issuing notice on 27.8.96, the Rule with the order of expediting the hearing was passed on 18.9.96. So far no return has been filed. When the matter came up before this Court on 12.12.96, Mr.P.J. Patel, who was appearing on behalf of the District Development Officer of District Panchayat, Nadiad had made a statement that papers regarding the pension had already been sent to the Government and, therefore, Mr. Bambhania was asked to keep the relevant records and the concerned officer ready before this court on the next date of hearing.

3. Today when the matter came up for final hearing before this court Mr.Bambhania submitted that the amount of pension was to be sanctioned by the Panchayat and not by the Government and also that the papers had not been received by the Government and, therefore, the respondents Nos.1,3 and 4 were not responsible if the pension had not been paid to the petitioner. The documents enclosed with the petition by the petitioner make it very clear through the letter dated 4.10.91 i.e. Annexure I at page 10 that the Accounts Officer of the Kheda District Panchayat at Nadiad had sent all the relevant papers to the Local Fund Accounts Department, Nadiad way back on 4.10.91. Thereafter, the Assistant Examiner of Nadiad Local Fund Accounts sent the letter dated 27.12.91 to the Accounts Officer of the District Panchayat, Nadiad. The document available at page Nos.18 and 19 i.e. a letter dated 3.3.92 sent by the Accounts Officer of the Kheda District Panchayat, Nadiad to the Asst. Examiner, Local Fund Accounts, Nadiad shows that the Accounts Officer of Kheda District Panchayat, Nadiad had met all the objections with reference to the Government Resolutions and orders and had also sent the pension case with service book to the Local Fund Accounts Department and it was the Local Fund Accounts Department which was then to process the papers and issue necessary sanction. Petitioner has also annexed Circular No.31/88 dated 15.11.88 and the Finance Department order dated 30.4.86 and it is very clear from the documents placed on record that even in the cases of the employees of the Panchayat the responsibility to accord sanction for payment of the pension lies with the Government and the pension has to be paid accordingly. It is also clear

from the facts available on the record that respondents Nos. 1,3 and 4 had not taken up this matter in the right earnest in accordance with the Government Resolutions and the Circulars and on that account the petitioner has remained deprived of the retiral dues in respect of the services rendered by her husband as a sweeper for a period of nearly 33 years of qualifying service in the Panchayat. I find that the petitioner's claim of pension in respect of the services rendered by her deceased husband and other retiral dues are just and same deserves to be accepted by the respondents Nos.1,3 and 4. Rather they are under an obligation to decide the petitioner's claim with regard to pension and all other retiral dues of her deceased husband for the services rendered by him.

4. Accordingly this Special Civil Application is allowed and the respondents are directed to process and finalise the pension case in respect of the petitioner's deceased husband Shri Dahyabhai B. Parmar within a period of six weeks from the date the certified copy of this order is served upon the respondents and the payment of the due amount alongwith all arrears shall be made available into the hands of the petitioner at the earliest possible opportunity but in no case later than 31.3.97. It will be the joint and several responsibility of all the respondents to see that the payment is made good into the hands of the petitioner with all arrears upto date on or before 31.3.97. Should the respondents fail to make good this payment on or before 31.3.97, the petitioner shall be entitled to an interest at the rate of 18% per annum from the respondents for the entire period upto date from the date of expiry of one month after the date of retirement i.e. beginning from March, 1992. Rule is made absolute accordingly. The petitioner shall be entitled to the cost of Rs.5000/- (Rupees five thousand only) from the respondents and that will also be required to be paid on or before 31.3.97.

It will be open for the respondents to fix the accountability of the concerned officer on whose account the delay has occurred for which the respondents have been required to pay the costs.